

## § 1256.1

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### Subpart A—General Information

#### § 1256.1 What does this part cover?

This part describes NARA's policies on access to archival records of the Executive Branch and donated historical materials in the National Archives of the United States and to records in the physical custody of the Federal records centers. This part applies to records and materials covered by the Federal Records Act (44 U.S.C. 2108 and chs. 29, 31, 33) and donated historical materials. This part does not apply to Presidential, Supreme Court, Senate, House of Representatives, and Architect of the Capitol records except for the purpose of directing mandatory review requests in subpart E.

#### § 1256.2 How do I obtain access to records stored in Federal Records Centers?

Agencies that retire their records to a Federal records center (FRC) set rules for access to those records. Address requests for access to records

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stored in Federal records centers directly to the appropriate agency or to the appropriate FRC director at the address shown in part 1253. When the agency's rules permit, NARA makes FRC records available to requesters. When the agency's rules and restrictions do not permit access FRCs receive requests that should have been sent to the agency, the FRC director refers the requests and any appeals for access, including those made under the Freedom of Information Act (5 U.S.C. 552, as amended), to the responsible agency.

### **§ 1256.4 How does NARA handle subpoenas and other legal demands for records in its custody?**

(a) For records stored in a Federal records center, NARA honors a subpoena duces tecum (subpoena) or other legal demand for the production of agency records, to the extent required by law, if the agency that retired the records has not imposed any restrictions. If the agency has imposed restrictions, NARA notifies the authority issuing the subpoena or other legal demand that NARA abides by the agency-imposed restrictions and refers the authority to the agency for further action.

(b) The Archivist of the United States, the General Counsel (NGC) or his or her designee, and the Director of the FRC where the records are stored are the only NARA officials authorized to accept a subpoena or other legal demand for records transferred to an FRC.

(c) The Archivist of the United States, the General Counsel (NGC) or his or her designee, the appropriate Assistant Archivist, Regional Administrator, or Director of a Presidential library are the only NARA officials who may be served a subpoena duces tecum or other legal demand for the production of documents designated as Federal archival records or donated historical materials administered by NARA.

### **§ 1256.6 How do I obtain access to records of defunct agencies?**

NARA handles access to archives and FRC records received from agencies that have ceased to exist without a

successor in function as described in Subpart B.

### **§ 1256.8 How do I obtain access to Presidential records?**

See 36 CFR part 1270, Presidential Records, for the rules for access to Presidential records transferred to NARA.

### **§ 1256.10 How do I obtain access to Nixon Presidential materials?**

See 36 CFR part 1275, Preservation and Protection of and Access to the Presidential Historical Materials of the Nixon Administration, for the rules for access to Nixon Presidential materials.

## **Subpart B—Access to Federal Archival Records**

### **§ 1256.20 May I obtain access to Federal archival records?**

(a) Most Federal archival records are open for research without submitting a Freedom of Information Act (FOIA) request. Part 1254 specifies procedures for using unrestricted records in a NARA research room, submitting reference requests, and ordering copies of records.

(b) Some records are subject to restrictions prescribed by statute, Executive Order, or by restrictions specified in writing in accordance with 44 U.S.C. 2108 by the agency that transferred the records to the National Archives of the United States. All agency-specified restrictions must comply with the FOIA. Even if the records are not national-security classified, we must screen some records for other information exempt from release under the FOIA.

### **§ 1256.22 How do I request access to restricted information in Federal archival records?**

(a) You may file a FOIA request. To request access under the provisions of the FOIA, see part 1250 of this chapter, Public Availability and Use of Federal Records.

(b) For classified information in Federal records, you may file a FOIA request or a mandatory review request under Executive Order 12958, as amended, as described in § 1256.74.